

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF)
REVISIONS TO CHAPTERS 1, 2,)
AND 7 OF THE SOLID WASTE)
RULES AND REGULATIONS)

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statutes §35-11-112(a)(i), is adopting revisions to Chapters 1, 2, and 7 of the Solid Waste Rules and Regulations. These changes to the Solid Waste Rules and Regulations are being proposed pursuant to Wyoming Statutes §35-11-503. The principal reasons for these changes are:

1. To adopt provisions from Senate Enrolled Acts 58 and 71, Sixty-First Legislature of the State of Wyoming 2011 General Session, codified in the Environmental Quality Act at W.S. § 35-11-103(d), 35-11-103(h), 35-11-502(o) through (r), 35-11-523, 35-11-526, and 35-11-527.
2. To simplify and streamline permitting requirements for solid waste transfer, treatment and storage facilities.
3. To simplify and streamline permitting requirements for facilities storing used oil to be recycled or burned for energy recovery.
4. To update and improve closure and post-closure financial assurance cost calculations for low volume/low hazard facilities and for municipal solid waste landfills participating in the State Guarantee Trust Account.
5. To incorporate into the rule the statutory process for issuing renewal and closure permits for municipal solid waste management facilities, except low volume or low hazard solid waste treatment, transfer, processing and storage facilities.
6. To revise other sections of the rule as needed to support and implement the changes above.
7. To expanded and clarify standards for facilities that may be exempt from a permit or the need to obtain a waste management authorization.

8. To update municipal solid waste landfill location standards to comply with federal requirements for separation from airports and Wyoming Sage-Grouse protection standards.
9. To add landfill gas reporting standards to the annual reporting requirements for municipal solid waste landfills and streamline reporting requirements for landfill operators.

The Department is aware of the need for other changes to the solid waste rules. However, we are constraining this rulemaking to the changes above in order to focus on the transition to lifetime permits and to assist communities transitioning from landfills to waste transfer facilities. After this rule change is completed, the Department intends to begin a broader rulemaking to address other issues.

Senate Enrolled Acts 58 and 71, codified in the Environmental Quality Act at W.S. §35-11-103(d), 35-11-103(h), 35-11-502(o) through (r), 35-11-523, 35-11-526, and 35-11-527.

The following standards from Senate Enrolled Acts 58 and 71 are being incorporated into Chapters 1 and 2 of the Solid Waste Rules and Regulations:

1. Standards for issuing, renewing and amending lifetime permits for municipal solid waste landfills.
2. Definitions for “aquifer”, “groundwater”, and “lifetime” that apply to municipal solid waste landfills and definitions for “composite liner” and “leachate” which apply to solid waste management.
3. Annual reports which must be filed by the operators of municipal solid waste landfills with lifetime permits.
4. Annual inspections of municipal solid waste landfills with lifetime permits.
5. Performance based evaluation and design criteria for municipal solid waste landfills.

Streamlined permitting requirements for solid waste transfer, treatment and storage facilities:

The operators of solid waste transfer, treatment and storage facilities may be required to submit detailed permit applications, simplified low volume/low hazard permit applications, or the administrator may exempt certain facilities from a permit or any requirement to obtain a waste management authorization under the Solid Waste Rules and Regulations. The activities

that can be conducted under low volume/low hazard permits and the activities which may be considered exempt have been expanded. These changes are intended to apply an appropriate level of regulatory requirements and streamline the permitting process for communities who are closing small local landfills and transferring waste to larger regional landfills. These changes are also expected to help increase waste reduction measures such as composting and recycling and minimize the amount of waste that must be transported to regional landfills.

Streamlined permitting requirements for facilities storing used oil to be recycled or burned for energy recovery:

Facilities storing used oil to be recycled or burned for energy recovery are subject to a number of sometimes duplicative regulatory requirements in addition to the requirements found in the Solid Waste Rules and Regulations. In particular, Chapter 12, Sections 9 – 18 of the Wyoming Hazardous Waste Rules and Regulations contain extensive used oil management standards. However, the Wyoming Hazardous Waste Rules and Regulations do not include financial assurance requirements for the closure of used oil storage facilities. The rule change requires low volume/low hazard permits and financial assurance for the closure of commercially operated used oil transfer, treatment and storage facilities storing greater than 10,000 gallons of used oil.

Closure and post-closure financial assurance cost calculations for low volume/low hazard facilities and municipal solid waste landfills participating in the State Guarantee Trust Account:

The closure costs currently contained in Chapter 7 of the Solid Waste Rules and Regulations do not adequately reflect costs or site-specific closure and post-closure activities. The rule change process makes it impossible to adjust these costs to reflect changing market conditions in a timely and accurate way. Therefore, this rule change removes cost estimates from the rule and proposes moving them to a guidance document which can be more effectively changed to reflect accurate costs and site-specific factors. The basis for this change is rooted in the statutory responsibility of the director to determine the amount of bonds. W.S. §35-11-109(a)(xiii) states that the director shall “determine the amount of bonds to be posted by the operator to insure reclamation of any affected lands.” Also, W.S. §35-11-515(d)(i) and (ii) requires that operators of municipal landfills participating in the state guarantee trust account either “prepare a closure and post closure cost estimate in accord with rules of the council” (Chapter 7, Section 3(e)(i) and (ii)) or “agree to use a standard closure and post closure cost estimate prepared by the director.”

In addition, the current formula for calculating annual payments into the State Guarantee Trust Account does not give credit for previous payments. The formula has been revised to give credit for previous payments.

Statutory permit process:

When a permit application is received W.S. §35-11-502 requires the administrator to notify the applicant within sixty (60) days of submission of the application whether or not it is complete. After the application is determined complete, the applicant must complete the first of two rounds of public notice. The administrator shall review the application and, unless the applicant requests a delay, advise the applicant in writing within ninety (90) days from the date of determining the application is complete that a proposed permit is suitable for publication. Following this notification the applicant must complete a second round of public notice. The current Solid Waste Rules apply this process to new permits, but not to renewal and closure permits. Since the statutory permit process does not differentiate between new, renewal, and closure permits, the rule has been changed to use the statutory permit process for new, renewal, and closure permits.

Miscellaneous supporting changes:

A number of minor changes are needed to support and implement the more significant changes above. These changes are summarized below.

1. Revised the definition of “cell” to accommodate the new statute and the use of alternate routine cover material.
2. Added the definition of “existing unit” for clarification and for consistency with W.S. §35-11-527(a). The term “unit” has also been added in key areas of the rule to accommodate new statutes.
3. Added the definition of “green waste” for clarification related to the simplification of transfer station regulations.
4. Clarified the definition of “lateral expansion” for consistency with W. S. §35-11-527(a).
5. Added the definition of “municipal solid waste landfill” to conform to new statutes which apply to municipal solid waste landfills. These facilities were formerly called “sanitary landfills”.
6. Added the definition of “municipal solid waste landfill unit” because new performance based design standards apply to municipal solid waste landfill units. The definition is based on USEPA 40 CFR Part 258, Subpart A, paragraph 258.2 (7-1-10 edition)

7. Added the definition of “new municipal solid waste landfill unit” because new statutes include design standards for new municipal solid waste management units. This definition is based on 40 CFR Part 258, Subpart A, paragraph 258.2 . (7-1-10 edition)
8. Edited the definition of “sanitary landfill” to mean “municipal solid waste landfill” and changed “sanitary landfill” to “municipal solid waste landfill throughout the rule.
9. Changed the word “cell” to “unit” where needed to conform to new statutes.
10. Added the definition of “waste management unit boundary” because new statutes require that a relevant point of compliance in groundwater is established no more than 150 meters from the waste management unit boundary. This definition is based on 40 CFR Part 258, Subpart A, paragraph 258.2.
11. To facilitate effective application documents for facilities with lifetime permits, the rule was changed so that applications which were formerly needed to be presented in an order that conforms to the order of the rules may be submitted in an alternate format approved by the administrator.
12. Updated the rule to comply with statutory municipal solid waste landfill permit amendment requirements.
13. Updated permit transition requirements for municipal solid waste landfills.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the Act as stated in W.S. §35-11-102, and they have been promulgated in accord with the rulemaking provisions of the Wyoming Administrative Procedures Act.

EXECUTED THIS _____ DAY OF _____, 2012

FOR THE ENVIRONMENTAL QUALITY COUNCIL

Chairperson